



North Carolina Department of Revenue

Pat McCrory
Governor

Lyons Gray
Secretary

July 29, 2014

FEIN: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Attention: [REDACTED]

Re: Private Letter Ruling Request

Dear Ms. [REDACTED]

We have Form NC-PLR, Request for Private Letter Ruling dated December 20, 2013 and your letter and accompanying remittance of \$500.00. You have inquired as to your firm's North Carolina sales and use tax liability on its transactions for customers located in this State. Specifically, you have inquired whether your firm is liable for North Carolina sales and use tax on its charges to clients for audio and web conferencing services offered to customers who have a headquarters or a billing address in this State.

You advise that your firm "provides audio and web conferencing solutions from basic pass-code/automated services to customized, turnkey conferencing events. These services are offered to clients on an annual contract basis or a per use basis." Your firm has telecommunications equipment located in [REDACTED] that your firm utilizes to host calls. "[C]lients and their conferencing participants may call in from their respective physical locations, therefore connecting through the bridge in order to conduct audio and web conferencing. [REDACTED] [REDACTED] directs billings to the address of the clients' payable's department. The typical client has multiple offices, located in numerous states throughout the United States, where participants may utilize services, thus creating origination and termination points in and outside North Carolina, but the bills are directed only to a North Carolina address."

You have included a copy of a service agreement which lists various audio and web conferencing services your firm makes available to its customers. There is no contract other than the service agreement. "To utilize these services the clients' participants call in to a host site, i.e. [your firm's] telecommunications equipment, located outside of [this State]. This host site is the main hub that all callers dial into for an audio conference. The telecommunications equipment bridges all the participants that connect into one single conference. If using web conferencing, participants log-in to a host website using their computers from their respective locations. All participants are connected into a single web conference through computer equipment located outside of North Carolina." All participants "originate and terminate 'services' from their respective locations, which may or may not be located in North Carolina." Your firm "provides audio and web conference bridging services" to its clients "as the only service it provides." The clients "all receive additional telecommunications services from other service providers. . . ."

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N.C. Gen. Stat. § 105-164.4C(a) provides that the gross receipts derived from providing telecommunications service or ancillary service in North Carolina are subject to the combined general rate of sales and use tax which is currently set at 7.00%. This statute further provides that “[a]ncillary service is provided in this State if the telecommunications service to which it is ancillary is provided in this State.” N.C. Gen. Stat. § 105-164.3(1b) defines the term “ancillary service” as “[a] service associated with or incidental to the provision of telecommunications service. The term includes detailed communications billing, directory assistance, vertical service, and voice mail service. A vertical service is a service, such as call forwarding, caller ID, three-way calling, and conference bridging, that allows a customer to identify a caller or manage multiple calls and call connections.”

N.C. Gen. Stat. § 105-164.3(48) defines the term “telecommunications service” as “[t]he electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. . . . The term does not include:

- a. An information service
- b. The sale, installation, maintenance, or repair of tangible personal property.
- c. Directory advertising and other advertising.
- d. Billing and collection services provided to a third party.
- e. Internet access service.
- f. Radio and television audio and video programming service, regardless of the medium of delivery, and the transmission, conveyance, or routing of the service by the programming service provider. The term includes cable service and audio and video programming service provided by a mobile telecommunications service provider.
- g. Ancillary service.
- h. Digital property that is delivered or accessed electronically, including an audio work, an audiovisual work, or any other item subject to tax under G.S. 105-164.4(a)(6b).”

You have advised that the audio and web conference bridging services are the only telecommunications service your firm provides its clients and that all clients receive additional telecommunications service from other service providers. The audio and web conference bridging services are not paid for at the time the service is provided, and your firm charges on “call-by-call” basis. The audio and web conference bridging services originate and terminate outside North Carolina, and the equipment your firm uses to provide these services is located outside this State. Therefore, under the provisions of N.C. Gen. Stat. § 105-164.4C, your firm’s ancillary services of audio and web conference bridging are not subject to North Carolina sales and use tax.

This ruling is based solely on the facts submitted to the Department of Revenue for consideration of the transactions described. If the facts and circumstances given are not accurate, or if they change, then the taxpayer requesting this ruling may not rely on it. If a taxpayer relies on this ruling and the Department discovers, upon examination, that the fact situation of the taxpayer is different in any material aspect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that this document is not to be cited as precedent and that a change in statute, a regulation, or case law could void this ruling.

If you have any questions, you may reach me at the number listed below.

Very truly yours,

Administration Officer
Sales and Use Tax Division

cc: , Director of Sales and Use Tax Division